

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CAROLYN A. HARRIS,

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner of the  
Social Security Administration

Defendant.

Case No. C11-1655 RAJ-BAT

## **ORDER ON REMAND**

Defendant.

The court has considered plaintiff's complaint (Dkt. 1), the papers filed in support of and in opposition to the Commissioner's motion to dismiss (Dkts. 13, 14), the Report and Recommendation (Dkt. 15) of the Honorable Brian A. Tsuchida, United States Magistrate Judge, and the balance of the record. The court notes that no one objected to the Report and Recommendation. The court orders as follows

- (1) The court ADOPTS the Report and Recommendation.
  - (2) The court DENIES the Commissioner's motion to dismiss.
  - (3) This court REMANDS this case to the Commissioner based on new, material evidence pursuant to **sentence six** of 42 U.S.C. § 405(g).
  - (4) On remand, the Appeals Council shall:
    - a. Verify the dates last insured at issue in Plaintiff's March 11, 2005, and July 14, 2009, adverse reconsideration determinations. If there is an unadjudicated

1 period, the Appeals Council will vacate the Order of Dismissal of Plaintiff's  
2 subsequent May 2009 application and provide Plaintiff with a *de novo* hearing  
3 on the unadjudicated period of time, pursuant to Acquiescence Ruling (AR)  
4 97-4(9);

- 5 b. Vacate the ALJ's January 25, 2011, Order Dismissing Plaintiff's Request for a  
6 Hearing and provide Plaintiff another decision on her request to reopen her  
7 August 2004 application, to further develop the record and include  
8 consideration of her mental impairments, pursuant to Social Security Ruling  
9 (SSR) 91-5p.
- 10 (5) The Appeals Council may review all relevant documents and enter all appropriate  
11 rulings to allow further development of the record.
- 12 (6) Although the clerk shall TERMINATE this civil action, the court retains  
13 jurisdiction over the case pursuant to 42 U.S.C. § 405(g). Hence, if the Appeals  
14 Council after further developing and reviewing the record enters a decision that is  
15 unfavorable to plaintiff, she may seek judicial review by reinstating this case,  
16 rather than by filing a new complaint.

17 DATED this 18th day of June, 2012.

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The Honorable Richard A. Jones  
United States District Court Judge